



ATTORNEY DOCKET NO. 14114.0381U2
PATENT

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of)	
)	
Ades, et. al.)	Group Art Unit: 1645
)	
Application No. 09/600,057)	Examiner: Swartz, Rodney P.
)	
Filed: October 5, 2000)	Confirmation No. 7894
)	
For: RECOMBINANT LIPIDATED)	
ASSAY FOR DETECTION OF)	
PNEUMOCOCCAL DNA AND)	
DIAGNOSIS OF PNEUMOCOCCAL)	
DISEASE)	

**PETITION FOR REVIVAL OF AN APPLICATION FOR
PATENT ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. § 1.137(b)**

Mail Stop Petition
Commissioner for Patents
Post Office Box 1450
Alexandria, Virginia 22313-1450

NEEDLE & ROSENBERG, P.C.
Customer No. 52488

Sir: June 4, 2007

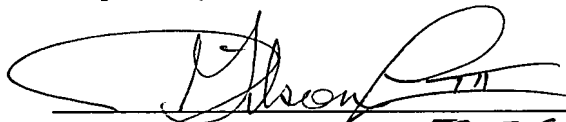
The Applicant hereby petitions pursuant to 37 C.F.R. § 1.137(b) for the revival of the above-identified application ("Application"), which was unintentionally abandoned. The Application became abandoned because Applicant failed to reply to the Advisory Action mailed on October 18, 2005. The abandonment date of this application was August 19, 2005. Pursuant to 37 C.F.R. § 1.137(b), the Applicant hereby states that the entire delay in filing the required reply from the due date of the reply until the filing of this Petition was unintentional. Since the Application was filed on or after June 8, 1995, no terminal disclaimer is required.

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ATTORNEY DOCKET NO. 14114.0381U2
APPLICATION NO. 11/089,938

This petition is accompanied by a copy of the required reply that was due August 19, 2005, and a copy of a Request for Continued Examination, both of which are being filed simultaneously with the U.S. Patent and Trademark Office, Mail Stop RCE, and a Credit Card Payment Form-2038 in the amount of \$1,500.00 for the Petition Fee, as appropriate for a large entity per 37 C.F.R. §1.17(m). This amount is believed to be correct. However, the Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 14-0629.

Respectfully submitted,


Gwendolyn D. Spratt 57,519 FOR GWEN SPRATT
Registration No. 36,016

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CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8

I hereby certify that this correspondence, including any items indicated as attached or included, is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on the date indicated below.


J. Gibson Lanier

Date

6/4/07

COPY

**REQUEST
FOR
CONTINUED EXAMINATION (RCE)
TRANSMITTAL**

Address to:
Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450



Application Number	09/600,057
Filing Date	October 5, 2000
First Named Inventor	Edwin W. Ades
Group Art Unit	1645
Examiner Name	Rodney P. Shwartz
Attorney Docket Number	14114.0381U2

This is a Request for Continued Examination (RCE) under 37 C.F.R. § 1.114 of the above-identified application.
Request for Continued Examination (RCE) practice under 37 CFR 114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application.

1. Submission required under 37 C.F.R. § 1.114

- a. ☐ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.
- i. ☐ Consider the amendment(s)/reply under 37 C.F.R. § 1.116 previously filed on [***DATE OF PREVIOUS AMENDMENT***] (Any unentered amendment(s) referred to above will be entered).
- ii. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on [****DATE OF APPEAL BRIEF****]
- iii. ☐ Other *****
- b. ☒ Enclosed
- i. ☒ Amendment/Reply
- ii. ☐ Affidavit(s)/Declaration(s)
- iii. ☐ Information Disclosure Statement (IDS)
- iv. ☒ Other Copy of Petition for Revival of an Application for Patent Abandoned Unintentionally filed simultaneously with the U.S. Patent and Trademark Office, Mail Stop Petition, on May 30, 2007

2. Miscellaneous

- a. ☐ Suspension of action on the above-identified application is requested under 37. C.F.R. § 1.103(c) for a period of ***** months. (Period of suspension shall not exceed 3 months; Fee under 37 C.F.R. § 1.17(i) required)
- b. ☐ Other ****

3. Fees

(Fees are required at the time the RCE is filed)

- a. ☐ Check in the amount of \$***** is enclosed for the fees designated below.
- b. ☒ Credit Card Form PTO-2038 authorizing payment in the amount of \$790.00 is enclosed for the fees designated below.
- c. ☐ Credit Card Form PTO-2038 is herewith submitted electronically in the amount of \$***** for the fees designated below.
- d. ☐ The Director is hereby authorized to charge the amount of \$**** to Deposit Account No. 14-0629 for the fees designated below.
- e. ☒ Fees
- ☒ RCE fee required under 37 C.F.R. § 1.17(e)
- ☐ Extension of time fee (37 C.F.R. §§ 1.136 and 1.17)
- ☐ Other
- f. ☒ The Director is hereby authorized to charge any underpayment or credit any overpayment to Deposit Account No. 14-0629.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Name (Print/Type)	Gwendolyn D. Spratt	Registration No. (Attorney/Agent)	36,016
Signature		Date	6/4/07

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I hereby certify that this correspondence, including any items indicated as attached or include, is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date indicated below.

Name of Person Mailing(Print/Type)	J. Gibson Vanier		
Signature		Date	6/4/07

COPY

Attorney Docket No. 14114.0381U2
Application No. 09/600,057

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Ades, et. al.

Application No. **09/600,057**

Filed: **October 5, 2000**

For: **RECOMBINANT LIPIDATED
ASSAY FOR DETECTION OF
PNEUMOCOCCAL DNA AND
DIAGNOSIS OF PNEUMOCOCCAL
DISEASE**



Group Art Unit: **1645**

Examiner: **Swartz, Rodney**

Confirmation No. **7894**

RESPONSE TO ADVISORY ACTION

Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

NEEDLE & ROSENBERG, P.C.
Customer No. 52488

June 4, 2007

Sir:

In response to the Advisory Action, please amend the application as follows. A
Petition to Revive for Unintentional Abandonment and a Request for Continued
Examination are filed concurrently.

Amendments to the Claims are reflected in the listing of claims which begins on
page 2 of this paper.

Remarks/Arguments begin on page 6 of this paper.

This listing of claims will replace all prior versions, and listings, of claims in the application:

1-12 (canceled)

13. (currently amended) Recombinantly produced, isolated and purified lipidated PsaA protein produced by a process comprising the steps of:
constructing a hybrid nucleic acid molecule comprising a first nucleic acid sequence encoding a signal sequence of a Borrelia lipoprotein and a second nucleic acid sequence encoding a mature PsaA protein, or fragment thereof, wherein the first nucleic acid sequence is contiguous with the second nucleic acid sequence; forming an expression vector containing the hybrid nucleic acid molecule operatively linked to a promoter for expression of the mature protein; introducing the expression vector into a host organism; effecting expression of the recombinant lipidated PsaA protein by the host organism; lysing the cells of the host organism; treating the lysed cells with a surfactant which selectively solubilizes the recombinant lipoprotein in preference to bacterial and other proteins and which is able to effect phase separation of a detergent phase under mild conditions; effecting phase separation at a detergent phase containing solubilized recombinant lipidated PsaA protein, an aqueous phase containing bacterial and other proteins and a solid phase containing cell residue; separating and recovering the detergent phase from the solid phase and the aqueous phase; contacting the detergent phase with a first chromatographic column under conditions which result in binding of protein other than the recombinant lipidated PsaA protein to the column to provide a flow-through

containing lipidated PsaA protein from the first chromatographic column and recovering the flow-through from the first chromatographic column; contacting the flow-through from the first chromatographic column with a second chromatographic column under conditions which result in binding of the recombinant lipidated PsaA protein in preference to contaminant proteins and lipopolysaccharides which flow through the second chromatographic column; eluting the recombinant lipidated PsaA protein from the second chromatographic column to provide an eluant ~~substantially free from lipopolysaccharides and contaminant proteins~~having a purity of at least 80%; and recovering the eluant.

14. (currently amended) Recombinantly produced, isolated and purified lipidated PsaA protein ~~substantially free from contaminant proteins and lipopolysaccharides~~having a purity of at least 80%.

15. (canceled)

16. (previously presented) An immunological composition comprising the recombinant lipidated PsaA protein of claim 13.

17. (original) The immunological composition of claim 16, further comprising an adjuvant.

18. (original) The immunological composition of claim 17, wherein the adjuvant is alum.

19. (original) A method of inducing an immunological response in an animal comprising the step of administering to the animal the immunological composition of claim 16.

20. (previously presented) A method of immunizing a host against pneumococcal infection, which method comprises administering to the host an immunologically effective amount of recombinantly produced, lipidated PsaA, wherein the lipidated PsaA is recombinantly produced in a High Five cell.

21. (original) The method of claim 20, wherein said administration is effected intranasally.

22. (previously presented) An immunogenic composition for intranasal administration to a host susceptible to pneumococcal carriage to elicit a protective immunological response against colonization with *Streptococcus pneumoniae* in the nasopharynx, which comprises an immunizing amount of recombinant lipidated PsaA, or an immunogenic fragment thereof, wherein the lipidated PsaA is recombinantly produced in a High Five cell .

23. (original) The composition of claim 22, further comprising an adjuvant.

24. (original) The composition of claim 23, wherein the adjuvant is alum.
25. (previously presented) A recombinant lipidated PsaA protein encoded by a hybrid nucleic acid molecule comprising a first nucleic acid sequence encoding a signal sequence of a lipoprotein other than PsaA and a second nucleic acid sequence encoding a mature PsaA protein or immunogenic fragment thereof, wherein the first nucleic acid sequence is contiguous with the second nucleic acid sequence.
26. (previously presented) The recombinant lipidated PsaA protein of claim 25, wherein the signal sequence is the signal sequence of an OspA protein of a *Borrelia* species.
27. (previously presented) The recombinant lipidated PsaA protein of claim 25, wherein the lipidated PsaA is produced in a High Five cell.
28. (canceled)
29. (canceled)
30. (new) The recombinantly produced, lipidated PsaA protein of claim 14, wherein said protein has a purity of at least 95%.

Remarks

Claims 13, 14, 16-27, and 30 are pending after the cancellation of claims 1-12, 15, 28 and 29. Claims 13 and 14 are amended to recite a purity of 80% with support in claim 14 as filed. New claim 30 has support in claim 15 as filed. No new matter is believed to be added. Entry and allowance of the claims is believed to be merited and is respectfully requested.

All of the claims are indicated to be free of the art.

Rejections under 35 U.S.C. § 112, second paragraph

The rejection of claims 13, 14, and 16-19 under 35 U. S. C. 112, second paragraph as allegedly being indefinite for "substantially free" is maintained for reasons of record.

Applicant's traversal of this rejection for the reasons of record is maintained. However, to expedite prosecution, claims 13 and 14 are amended herein to remove the language at issue. Instead the claims recite that the claimed eluant and lipidated protein, respectively, have a purity of at least 80% as supported in claim 14 as filed. Since the allegedly indefinite language has been deleted, this rejection is believed to be overcome and it's withdrawal is respectfully requested.

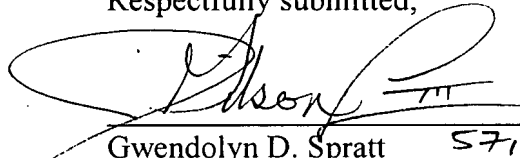
For the same reasons, new claim 30 is believed to free of this rejection.

Since there is no other rejection maintained, the present amendments and remarks are believed to put the application in condition for allowance. Thus, allowance of the application is respectfully requested.

Pursuant to the above amendments and remarks, reconsideration and allowance of the pending application is believed to be warranted. The Examiner is invited and encouraged to directly contact the undersigned if such contact may enhance the efficient prosecution of this application to issue.

A Credit Card Payment Form PTO-2038 authorizing payment in the amount of \$790.00 is enclosed for the Request for Continued Examination Fee, as appropriate for a large entity per 37 C.F.R. §1.17(e). This amount is believed to be correct. However, the Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 14-0629.

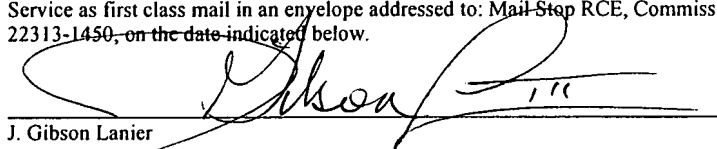
Respectfully submitted,


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J. Gibson Lanier

Date

6/4/07